



Comptroller General  
of the United States

Washington, D.C. 20548

33164

## Decision

**Matter of:** Worldwide Security Services, Ltd.

**File:** B-255392.2

**Date:** March 9, 1994

Anthony J. Shepherd for the protester.  
Sharon J. Danielson for Midland Security & Express Company, Inc., an interested party.  
Laura Naide, Esq., National Archives and Records Administration, for the agency.  
Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. In making award to lower-priced technically equivalent offer, an agency properly credited protester's proposal for its prior experience as the incumbent contractor.
2. The protester's contention that the agency wrongfully induced it into a 1-month contract extension of its incumbent guard service contract is not for review by the General Accounting Office under its bid protest function as it concerns a matter of contract administration.

### DECISION

Worldwide Security Services, Ltd. protests the award of a contract to Midland Security & Express Company, Inc. under request for proposals (RFP) No. NAMA-93-N2-P-0008, issued by the National Archives and Records Administration.

We deny the protest in part and dismiss it in part.

The agency issued the RFP on April 9, 1993, seeking proposals for a firm, fixed-price contract to provide security guard services at the Harry S. Truman Presidential Library. The RFP provided that proposals would be evaluated under the following technical evaluation criteria, listed in descending order of importance: Project Management, Related Experience and Performance, Interpretation of Library Requirements, Compensation/Staffing Plan, Incident Response

Plans, and Format of Proposal.<sup>1</sup> Price was said to be of lesser importance than either of the first two listed technical factors, but the RFP stated that "between substantially equal technical proposals, the proposed price will be the determining factor in selection of a proposal for award." [Emphasis in original.]

Six offerors submitted proposals by the May 10 closing date. Three of the six proposals were found technically acceptable, and the agency conducted written discussions and requested best and final offers (BAFO) by September 1. Worldwide's BAFO received the highest technical score of 872 points and its price of \$2,030,604 was the highest received. Midland received the lowest technical score of 850 points and its price of \$1,997,691 was the lowest received. The agency determined that the three proposals were substantially technically equal and made award to Midland on September 22. This protest followed.

Worldwide first argues that the agency failed to adequately credit it for its prior experience as the incumbent contractor in providing guard services at the Truman Presidential Library and that therefore the source selection, based substantially on price, was improper.

In reviewing a protest challenging the propriety of a technical evaluation, we will not evaluate a proposal anew and make our own determination as to its acceptability or relative merits, as the evaluation of proposals is the function of the contracting agency. Choctaw Mfg. Co., Inc., B-252199, May 24, 1993, 93-1 CPD ¶ 409. Rather, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the evaluation criteria listed in the RFP. Motorola, Inc., B-234773, July 12, 1989, 89-2 CPD ¶ 39.

Contrary to Worldwide's allegation, the record reflects that its performance as the incumbent at the Truman Presidential Library was evaluated and scored by the technical evaluation committee. The technical evaluation committee contacted the facility manager at the Truman Presidential Library concerning Worldwide's performance; the facility manager gave Worldwide a favorable reference and Worldwide received

---

<sup>1</sup>The agency established a 1,000-point evaluation formula, not disclosed to the offerors, under which 390 points were assigned to "Project Management"; 200 points were assigned to "Related Experience and Performance"; 160 points were assigned to "Interpretation of Library Requirements"; 120 points each were assigned to "Compensation/Staffing Plan" and "Incident Response"; and 10 points were assigned to "Format of Proposal."

199 out of the total 200 points for the evaluation factor "Related Experience and Performance."<sup>2</sup> Therefore, the agency reasonably evaluated Worldwide's experience in accordance with the evaluation criteria. Since Worldwide does not otherwise challenge the technical evaluation, we find proper the agency's award to the lower-priced, substantially equal offeror.

Worldwide argues that the RFP was defective because it did not require that all costs be separately itemized and, as a result, the agency was not able to properly evaluate start-up costs. This solicitation contemplates the award of a firm, fixed-price contract and therefore all costs, including start-up costs, are reflected in the prices proposed by the offerors.<sup>3</sup> To the extent that Worldwide argues that the solicitation does not adequately break out start-up costs, this allegation is untimely. Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing time for receipt of initial proposals be filed prior to the closing time. 4 C.F.R. § 21.2(a)(1) (1993). Since the protester failed to raise these allegations concerning the solicitation prior to the closing time for receipt of proposals, they are untimely.

Worldwide also argues that unnamed officials at the Truman Presidential Library advised Worldwide to bid a 3 percent per-year wage increase for all guard and supervisory personnel and that it was informed that all other offerors were similarly advised. The agency has denied that its officials made any such representations, and filed a declaration from the facility manager at the Truman Presidential Library stating that she was unaware of any

---

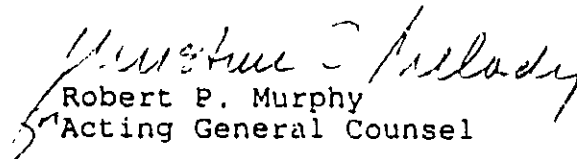
<sup>2</sup>According to Worldwide, it was informed during the debriefing by the contracting officer and a member of the technical evaluation committee that in evaluating its proposal the agency failed to credit it for its performance providing guard services at the Truman Presidential Library. To the extent Worldwide argues that its debriefing was inaccurate and misleading, we will not consider this allegation. The purpose of a debriefing is to assist offerors in submitting acceptable proposals on future procurements and, thus, Worldwide's debriefing had no legal effect on the validity of the underlying evaluation or selection decision. Sletten Constr. Co., B-242615, May 24, 1991, 91-1 CPD ¶ 506.

<sup>3</sup>Under a fixed-price contract the government's liability is fixed and the risk of cost escalation is borne by the contractor. See Culver Health Corp., B-242902, June 10, 1991, 91-1 CPD ¶ 556.

agency officials making such representations and a statement from the awardee stating that it did not receive any such information regarding price from the agency. Despite these declarations and the agency's assertion that Worldwide's charge should be discounted unless it named the individual who gave this alleged advice or when it was given, Worldwide failed to identify either the source of the advice or when it was given. Therefore, we find no support for Worldwide's allegation that unequal price discussions occurred.

Finally, Worldwide argues that the agency wrongfully induced it into a 1-month contract extension of its previous guard services contract for the Truman Presidential Library by concealing the fact that it had not been selected for award under this RFP. This allegation concerns a matter of contract administration under Worldwide's prior contract, which is not for consideration by our Office under our bid protest function. 4 C.F.R. § 21.3(m)(1); Jasper Painting Serv., Inc., B-251092, Mar. 4, 1993, 93-1 CPD ¶ 204.

The protest is denied in part and dismissed in part.

  
Robert P. Murphy  
Acting General Counsel